

AL 90-500

LANDSCAPE MAINTENANCE AGREEMENT

ARIZONA PROJECT LSF-020-1(3)

(4th Avenue - Yuma Airport)

City of Yuma Portion

THIS AGREEMENT, made this 24th day of July, 1980, pursuant to A.R.S. Sec. 11-951 through Sec. 11-954, by and between the Department of Transportation, Highways Division, an agency of the State of Arizona, thereunto duly authorized, hereinafter designated Department of Transportation and the City of Yuma, a municipal corporation, thereunto duly authorized, hereinafter designated as City.

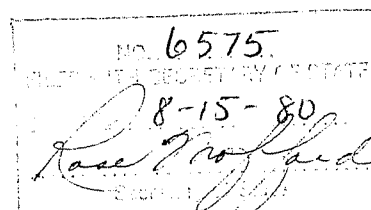
WITNESSETH:

WHEREAS, it is to the mutual advantage of the Department of Transportation and the City to landscape certain areas within the right-of-ways on Highway B-8 from Catalina Drive, approximate Roadway Station 170+00 to Pacific Avenue, approximate Roadway Station 234+00, a net distance of approximately 1.2 miles.

NOW THEREFORE, it is hereby mutually agreed by and between the Department of Transportation and the City, pursuant to the authority contained in A.R.S. Sec. 28-108, as follows:

1. The Department of Transportation from approved plans constructed the landscaping and irrigation project using federal funds apportioned to the State of Arizona.

2. The City shall furnish all water necessary to properly maintain the landscape between the right-of-way lines from Catalina Drive, approximate Roadway Station 170+00 to Pacific Avenue, approximate Roadway Station 234+00.



3. The City shall maintain the landscaping and irrigation system within the right-of-way from Catalina Drive, approximate Roadway Station 170+00 to Pacific Avenue, approximate Roadway Station 234+00.

4. The City shall furnish all electrical power necessary to maintain the landscaping within the right-of-way from Catalina Drive, approximate Roadway Station 170+00 to Pacific Avenue, approximate Roadway Station 234+00.

5. The City hereby agrees to maintain the landscaping and irrigation system as it was designed by the Department of Transportation and the City will not make any changes, additions or deletions without written approval by the Department of Transportation.

6. The City hereby agrees to save and hold harmless the Department of Transportation, or any of its departments, agencies, officers or employees from all cost and damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by an activity, condition, or event arising out of the performance or non-performance of any provision of this agreement by the City, any of its agents, or any of its independent contractors. The above cost incurred by the Department of Transportation or any of its departments, agencies or employees shall include in the event of an action, court costs, expenses of litigation and reasonable attorneys' fees. When any above cost, damage or other damage occurs as aforesaid, the City assumes the burden of proof that the activity, condition, or event did not cause such cost, damage or other damage within the right-of-way the City is maintaining.

7. This agreement shall be filed with the Secretary of State and shall become effective on the date of such filing.

8. Attached hereto are resolutions of the Department of Transportation and the City authorizing both entities to enter into this agreement, and a written determination by the City Attorney of Yuma that this agreement is in proper form and within the powers and authority granted to the City under the laws of this State.

9. The effective date of this agreement shall be upon filing with the Secretary of State and shall remain in full force and effect for a period of five (5) years from the effective date unless terminated earlier by mutual consent of the parties hereto or unless this agreement violates any Arizona law, rule or regulation, either now enacted or which may be enacted in the future. This agreement will be automatically renewed for successive periods of five (5) years unless the parties hereto mutually agree by formal amendment reflected herein to this agreement not less than one (1) month prior to the initial or renewed expiration date.

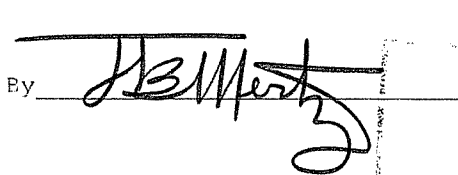
10. All parties are hereby put on notice that this Contract (Agreement) is subject to cancellation by the Governor, pursuant to Arizona Revised Statutes, Section 38-511.

IN WITNESS WHEREOF the parties have executed two copies of this agreement on the day and year herein written.

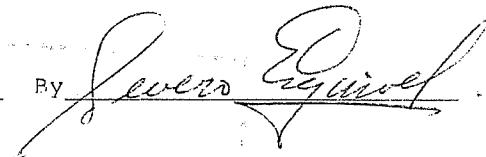
ARIZONA DEPARTMENT OF
TRANSPORTATION

CITY OF YUMA

By

Handwritten signature of J. B. Mertz in black ink, written over a horizontal line.

By

Handwritten signature of Severn Eguiviel in black ink, written over a horizontal line.

Councilman Tippettt introduced RESOLUTION NO. 2178 and moved adoption: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AUTHORIZING AND DIRECTING THE CITY ADMINISTRATOR AND CITY RECORDER TO ENTER INTO A CONTRACT WITH THE YUMA COUNTY CHAMBER OF COMMERCE FOR THE PROVISION OF TOURIST DEVELOPMENT AND PROMOTION SERVICES.

Seconded by Councilman Moxon and upon roll call vote the following voted AYE: Councilmen Tippettt, Tellbuescher, Rodriguez, Moxon, Jefferson, Mayor Deyo. NO: NONE. ABSENT: Councilman Bombard.

Councilman Jefferson introduced RESOLUTION NO. 2179 and moved adoption: A RESOLUTION OF THE CITY OF YUMA, ARIZONA, PROVIDING THAT THE CITY OF YUMA ENTER INTO AN AGREEMENT AND CONSENT FOR THE MAINTENANCE OF LANDSCAPING IN THE MEDIAN ISLANDS UNDER ARIZONA STATE HIGHWAY PROJECT LSF-020-1-(3) FROM STATION 170 TO STATION 234 ON HIGHWAY 80, WITH THE STATE OF ARIZONA; AUTHORIZING AND DIRECTING THE CITY ADMINISTRATOR AND CITY RECORDER TO EXECUTE SUCH AGREEMENT FOR AND ON BEHALF OF SAID CITY.

Seconded by Councilman Tellbuescher and upon roll call vote the following voted AYE: Councilmen Tippettt, Tellbuescher, Rodriguez, Moxon, Jefferson, Mayor Deyo. NO: NONE. ABSENT: Councilman Bombard.

Councilman Moxon introduced RESOLUTION NO. 2180 and moved adoption: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AUTHORIZING AND DIRECTING THE CITY ADMINISTRATOR AND CITY RECORDER TO ENTER INTO A CONTRACT WITH THE YUMA COUNTY CHAMBER OF COMMERCE FOR THE PROVISION OF ECONOMIC DEVELOPMENT SERVICES.

Seconded by Councilman Jefferson and upon roll call vote the following voted AYE: Councilmen Tippettt, Tellbuescher, Rodriguez, Moxon, Jefferson, Mayor Deyo. NO: NONE. ABSENT: Councilman Bombard.

The City Recorder gave first reading to the following Ordinances:

ORDINANCE NO. 1952: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AUTHORIZING THE CITY TO LEASE CERTAIN PROPERTY AS DESCRIBED HEREIN.

ORDINANCE NO. 1953: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING ORDINANCE NO. 1798. SECTION 4, CHAPTER 1-5, ADDING A SECTION LETTERED D.

ORDINANCE NO. 1954: AN ORDINANCE ADOPTING AND ENACTING A NEW CODE OF ORDINANCES OF THE CITY OF YUMA, ARIZONA; ESTABLISHING THE SAME; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; EXCEPT AS HEREIN EXPRESSLY PROVIDED; PROVIDING FOR THE EFFECTIVE DATE OF SUCH CODE AND A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.

ORDINANCE NO. 1955: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING ORDINANCE NO. 583, OF SAID CITY, AS AMENDED, CONDITIONALLY REZONING CERTAIN PROPERTIES HEREINBEFORE ZONED AGRICULTURE TO INDUSTRIAL "A" AND BUSINESS "B" DISTRICTS, RESPECTIVELY; AND AMENDING THE ZONING MAP TO CONFORM THERETO.

Mayor Deyo said at the worksession last night we had extensive discussion how we should present the Marcus Pool replacement to the people on the ballot, should it be a 50 M x 25 yds alone or be 25 M x 25 yds alone or put both size pools on the ballot and let the people decide.

David Thornberry told council he has not had any personal expense for the plane that was used to visit other pools, the plane was offered by the Bruce Church Company at their expense. Mr. Thornberry read a prepared statement pointing out that Marcus Pool is now dead, the Carver Pool will be next and then in future years it will be the Kennedy Pool. He spoke of the use of pools at the present time and future use, the need for larger pools and the trend to abandon smaller pools etc., and urged council to make a wise decision in the replacement of Marcus Pool. Mr. Thornberry said I respectfully ask that you place on the ballot the offer of a 50 M x 25 yd pool to the people.

Charles White, Chairman Parks & Recreation Commission, said to put bond items and the garbage fee on the same ballot is to misjudge the mood of the voters. If you want this pool now and it is on the ballot with the garbage fee the people are not going to vote yes for a pool when they are voting against the fee. Councilman Tellbuescher said I wish we had the money to build a swimming pool so we would not have to go to bond, we need the pool desperately and the mood of the people is not the best, there are several

STATE OF ARIZONA)
 : SS
COUNTY OF YUMA)

I, Marjorie Oliver, City Recorder
of the City of Yuma, Arizona, do hereby certify that the
following is a true and correct extract of the minutes of
the City Council meeting held July 16, 1980.

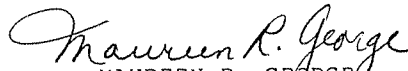
In Witness Whereof, I have hereunto set my hand
and affixed the Official Seal of the City of Yuma, Arizona.
Done in Yuma, Arizona this 22nd day of
July, 1980.

Marjorie Oliver
City Recorder

APPROVAL OF THE CITY ATTORNEY

I hereby state that I have reviewed the proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, STATE ENGINEER and the CITY OF YUMA and declare this agreement to be in proper form and within the powers and authority granted under the laws of the State of Arizona.

DATED this 30th day of June,
1980.


MAUREEN R. GEORGE
The City Attorney

RESOLUTION NO. 2179

A RESOLUTION OF THE CITY OF YUMA, ARIZONA, PROVIDING THAT THE CITY OF YUMA ENTER INTO AN AGREEMENT AND CONSENT FOR THE MAINTENANCE OF LANDSCAPING IN THE MEDIAN ISLANDS UNDER ARIZONA STATE HIGHWAY PROJECT LSF-020-1-(3) FROM STATION 170 TO STATION 234 ON HIGHWAY 80, WITH THE STATE OF ARIZONA; AUTHORIZING AND DIRECTING THE CITY ADMINISTRATOR AND CITY RECORDER TO EXECUTE SUCH AGREEMENT FOR AND ON BEHALF OF SAID CITY.

THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF YUMA AS FOLLOWS:

SECTION 1. That the City of Yuma enter into an agreement and consent relating to the maintenance of the landscaping in the median islands on Highway 80 between Catalina Drive and Pacific Avenue (Station 170 to Station 234) with the Arizona State Highway Department upon the terms and conditions set forth in the State of Arizona, Arizona Highway Department Landscaping Agreement LSF-020-1(3)-Landscaping, F-020-1-502-Curb and Overlay, 4th Avenue-Yuma Airport, between said parties.

SECTION 2. That the City Administrator and the City Recorder be hereby authorized and directed to execute said certain agreements for and on behalf of the City of Yuma.

PASSED AND ADOPTED this 16th day of July, 1980.

APPROVED:

[Signature]
Mayor

ATTEST:

[Signature]
City Recorder

APPROVED AS TO FORM:

[Signature]
City Attorney

REVIEWED BY:

[Signature]
City Administrator



OFFICE OF THE
Attorney General
1801 WEST JEFFERSON STREET
FOURTH FLOOR
PHOENIX, ARIZONA 85007

ROBERT K. CORBIN
ATTORNEY GENERAL

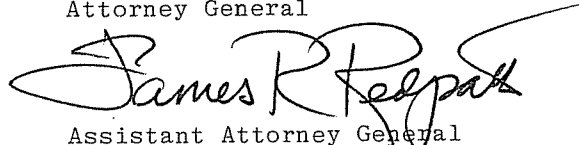
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A. G. Contract No. 80-506, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in proper form and is within the powers and authority granted to the State or its agencies under the laws of the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 28th day of July, 1980.

ROBERT K. CORBIN
Attorney General


Assistant Attorney General
Transportation Division

RESOLUTION

Be it resolved on this date, July 24, 1980, I, WILLIAM A. ORDWAY, the below undersigned Director, Department of Transportation, have determined that it is to be to the advantage of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, and the CITY OF YUMA, acting by and through its CITY COUNCIL enter into the intergovernmental agency agreement for the purpose of entering in a landscape maintenance agreement for certain projects which have been selected by the State and subject to the approval of the City of Yuma as by law required; and request the City to perform certain work and supply necessary materials required to maintain the specified areas in the manner specified in the attached agreement.


WILLIAM A. ORDWAY, Director
Department of Transportation